

RESOLUTION GRANTING THIRD ROUND SUBSTANTIVE CERTIFICATION

#5 -09

Eastampton Township, Burlington County

WHEREAS, Eastampton Township, Burlington County, petitioned the Council on Affordable Housing (COAH) on December 22, 2008 for substantive certification of a Housing Element and Fair Share Plan addressing its total 1987-2018 affordable housing obligation; and

WHEREAS, Eastampton Township published notice of its petition on March 6, 2009 in the Burlington County Times, which is a newspaper of general circulation within the county, pursuant to N.J.S.A. 52:27D-313 and N.J.A.C. 5:96-3.5; and

WHEREAS, no objections to the plan were received by COAH during the 45-day objection period, which ended April 23, 2009; and

WHEREAS, Eastampton Township's fair share plan addresses a total 1987-2018 affordable housing obligation of 139 units, consisting of a 17-unit rehabilitation share, 49-unit prior round obligation and a 73-unit projected growth share obligation; and

WHEREAS, COAH staff has reviewed the Township's Housing Element and Fair Share Plan; and

WHEREAS, Eastampton Township proposes to address its 17-unit rehabilitation share with 4 new construction (rental) credits from the Eastampton Apartments, a 100-unit 100 percent affordable rental complex constructed in 2002 by Pennrose Properties; and

WHEREAS, Eastampton proposes to address the remaining 13 units of the rehabilitation share through an Interlocal services agreement with Burlington County; and

WHEREAS, the Township proposes to address its 49-unit prior round obligation with 37 credits and 12 rental bonuses from the Eastampton Apartments; and

WHEREAS, Eastampton proposes to address its 73-unit projected growth share obligation with 59 credits and 18 rental bonuses from the Eastampton Apartments, and

WHEREAS, after satisfying the Township's total 139-unit fair share obligation, Eastampton has a surplus of four credits; and

WHEREAS, pursuant to N.J.A.C. 5:96-6.2(a)2, on April 23, 2009 COAH issued a Compliance Report (attached as Exhibit A and incorporated by reference herein) recommending approval of Eastampton Township's petition for third round substantive certification; and

WHEREAS, there was a 14-day period to submit comments to the COAH Compliance Report pursuant to N.J.A.C. 5:96-6.2(b) and COAH received no comments.

NOW THEREFORE BE IT RESOLVED that the Housing Element and Fair Share Plan submitted by Eastampton Township comports to the standards set forth at N.J.S.A. 52:27D-314 and meets the criteria for third round substantive certification pursuant to N.J.A.C. 5:96-6.3; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.2(a), after having reviewed and considered all of the above, COAH hereby grants third round substantive certification to Eastampton Township; and

BE IT FURTHER RESOLVED that after receiving final substantive certification, pursuant to N.J.A.C. 5:96-6.3(e), Eastampton Township shall adopt all implementing Fair Share Ordinances and the resolution of intent to bond or appropriate funds from general revenue within 45 days of this grant of substantive certification; and

BE IT FURTHER RESOLVED that if Eastampton Township fails to timely adopt its Fair Share Ordinances, COAH's grant of substantive certification shall be void and of no force and effect; and

BE IT FURTHER RESOLVED that Eastampton shall submit all Fair Share Ordinances to COAH upon adoption; and

BE IT FURTHER RESOLVED that Eastampton shall comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting Eastampton's actual growth pursuant to N.J.A.C. 5:97-2.5; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-10.1, COAH shall conduct biennial plan evaluations upon substantive certification of Eastampton's Housing Element and Fair Share Plan to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing; and

BE IT FURTHER RESOLVED that if upon any biennial review the difference between the number of affordable units constructed or provided in Eastampton and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a pro-rated production shortage of 10 percent or greater, or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, the Council may direct the municipality to amend its plan to address the shortfall; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.3(b), Eastampton's substantive certification shall remain in effect until December 30, 2018; and

BE IT FURTHER RESOLVED that any changes to the facts upon which this substantive certification is based or any deviations from the terms and conditions of this substantive certification which affect the ability of Eastampton Township to provide for the realistic opportunity of its fair share of low and moderate income housing and which the Township fails to remedy, may render this certification null and void.

I hereby certify that this resolution was
duly adopted by the Council on Affordable
Housing at its public meeting on May 14, 2009

A handwritten signature in black ink, reading "Renee Reiss". The signature is written in a cursive, flowing style with large loops.

Renee Reiss, Secretary
Council on Affordable Housing



***Council on Affordable Housing
Compliance Report
4/23/09***



Municipality: Eastampton Township
County: Burlington County

COAH Region: # 5
Planning Area: PA2, PA4
Special Resource Area: None

Housing Element and Fair Share Plan Adopted: December 8, 2008
Petition for 3rd Round Substantive Certification: December 22, 2008
Completeness Determination: February 25, 2009
Date of Publication: March 6, 2009 (Burlington County Times)

Objections Received: No
Petition Includes:
 VLA: No
 GPA: No
 Waiver: No **Section:** N/A

Date of Site Visit: N/A

History of Approvals:

	COAH	JOC	N/A
First Round:			x
Second Round:		1/03/02	
Extended Certification:			x

Plan Preparer: Barbara Fegley, PP/AICP

Municipal Housing Liaison: D. Scott Carew

Recommendation: Grant Substantive Certification

SUMMARY OF FAIR SHARE OBLIGATION

Rehabilitation Share	17
Prior Round Obligation	49
Projected Growth Share Obligation (Net)	73

ACTUAL GROWTH and GROWTH SHARE through September, 2008¹

Res Units (#)	Actual Res Growth Share	Jobs (#)	Actual Non-Res Growth Share	Actual TOTAL Growth Share
20	4 units	104	6 units	10 units

COMPLIANCE PLAN SUMMARY

Obligation	Credit/ Mechanism Type	# Units Completed	# Units Proposed	TOTAL
Rehabilitation: 17 units				
Credits	New Construction	4		4
Program	County/Municipal		13	13
Rehabilitation Subtotal				17
NEW CONSTRUCTION:				
Prior Round: 49 units				
Credits	Post-1986	37		37
Prior Round Bonuses	Rental	12		12
Prior Round Subtotal				49
Growth Share: 73 units				
Credits	Post-1986	59		59
Growth Share Bonuses	Rental	18		18
Growth Share Subtotal				77
Surplus				4

I. HOUSING ELEMENT

Pursuant to N.J.S.A. 40:55D-28(b), the Housing Element is a required section of the Municipal Master Plan. The Housing Element must be designed to achieve the goal

¹ This growth share number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.4; therefore, the actual growth share may vary.

of access to affordable housing to meet existing and future housing needs, with special attention given to low- and moderate-income households. The housing needs analysis must include demographic information on existing and projected housing stock and employment characteristics, a quantification of low- and moderate-income housing need, and a consideration of the lands within Eastampton that are most appropriate to accommodate such housing. Eastampton's Housing Element includes sufficient information regarding housing stock, demographic and employment characteristics and population trends pursuant to N.J.S.A. 52:27D-310.

Under N.J.A.C. 5:97-2.1(b), the Housing Element must also set forth Eastampton's fair share obligation, which is the sum of the rehabilitation share, the prior round obligation and the growth share.

A. Rehabilitation Share

The rehabilitation share is the number of existing housing units within Eastampton as of April 1, 2000, that are both deficient and occupied by households of low or moderate income. As indicated in Appendix B of N.J.A.C. 5:97, Eastampton has a rehabilitation share of 17 units.

B. Prior Round Obligation

The prior round obligation is the cumulative 1987-1999 new construction obligation provided in Appendix C of N.J.A.C. 5:97. Eastampton has a prior round obligation of 49.

C. Projected Growth Share

The projected growth share is initially calculated based on household (residential) and employment (non-residential) 2004-2018 projections. Pursuant to Appendix F of N.J.A.C. 5:97, Eastampton has a residential projection of 211 units and a non-residential projection of 493 jobs, which results in an initial projected growth share obligation of 73 affordable units. Eastampton's total projected growth share for the period 1999-2018 is 73 affordable units consisting of a 42-unit projected residential growth share and a 31-unit projected non-residential growth share.

SUMMARY OF FAIR SHARE OBLIGATION

Rehabilitation Share	17
Prior Round Obligation	49
Projected Growth Share Obligation (Net)	73

II. FAIR SHARE PLAN

A Fair Share Plan, as required under N.J.A.C. 5:97-3.1, describes the completed or proposed mechanisms and funding sources, if applicable, that will be utilized to specifically address a municipality's rehabilitation share, prior round obligation, and growth share obligation and includes the draft ordinances necessary to implement that plan. Affordable housing must be provided in direct proportion to the growth share obligation generated by the actual growth.

Eastampton's Fair Share Plan, and the supporting documentation incorporated by reference therein, address the requirements of N.J.A.C. 5:97-3.1 as follows:

A. Plan to Address Rehabilitation Share

Rehabilitation Share Credits

Eastampton Township does not have its own municipal rehabilitation program and the Burlington County program is not currently available to renter-occupied units. COAH staff is reaching out to the county to expand its program to enable municipalities to meet the requirements of N.J.A.C. 5:97-6.2(b)6 which states, "A municipal rehabilitation program shall provide for the rehabilitation of rental units." In the interim, COAH staff has allocated four new construction units from the Eastampton Apartments toward the rehabilitation obligation. N.J.A.C. 5:97-6.2(b)7 provides for a municipality to use new construction credits to address its rehabilitation obligation. When a rental rehabilitation program becomes available, Eastampton may amend its plan to shift these

units back to new construction status. COAH staff can assist the Township in this process.

In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

Rehabilitation Credits

Rehabilitation Program	# Credits
New Construction Credits	4
TOTAL	4

Proposed Rehabilitation Program

Burlington County Rehabilitation Program

Eastampton will utilize the Burlington County Rehabilitation Program to address 13 units of its rehabilitation obligation. The Township has submitted a copy of the Interlocal Services Agreement for this purpose. Eastampton has also submitted a schedule for the rehabilitation program and a draft resolution of intent to bond for any shortfall in the program, which must be adopted within 45 days of substantive certification.

Proposed Rehabilitation Program

Rehabilitation Program	# Units
Burlington County Rehab Program	13
TOTAL	13

B. Plan to Address Prior Round Obligation

Prior Round Obligation Credits

Eastampton is addressing its prior round obligation with 37 post-1986 credits and 12 rental bonuses from Eastampton Apartments, a 100-unit family rental development

constructed in 2002 in accordance with a court settlement and second round Judgment of Compliance. In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

Post-1986 Credits

Project/Development Name	Year Built or Approved	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Eastampton Apartments/Pennrose Properties	2002	Family rental	37	Rental	12	49
TOTALS			37		12	49

Proposed Affordable Housing Mechanisms

Eastampton is relying on credits and therefore is not proposing any additional affordable housing mechanisms to address its prior round obligation.

Prior Round Obligation Parameters

Eastampton has satisfied the applicable Prior Round parameters as follows:

Prior Round Rental Obligation:² 12 Units

Development/Project Name	Type of Affordable Unit	# Units
Eastampton Apartments	Family rental	37
TOTAL		37

² Rental Obligation: .25 (Prior Round Obligation – Prior Cycle Credits – Impact of 20% cap – Impact of 1000-unit limitation) = .25 (49 – 0 – 0 – 0 – 0) = 12

Prior Round Rental Bonus Maximum³ : 12 Units

Development/Project Name	Type of Bonus	# Bonuses
Eastampton Apartments	Family rental	12
TOTAL		12

C. Plan to Address Projected Growth Share

Growth Share Obligation Credits

Eastampton is addressing its 73-unit projected growth share obligation with 59 units of credit and 18 rental bonuses from Eastampton Apartments. In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

Post-1986 Credits

Project/Development Name	Year Built or Approved	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Eastampton Apartments	2002	Family rental	59	Family rental	18	77
TOTALS			59		18	77

Proposed Affordable Housing Mechanisms

Eastampton is relying on credits and therefore is not proposing any additional affordable housing mechanisms to address its growth share obligation.

Growth Share Parameters

Eastampton has satisfied the applicable Growth Share parameters as follows:

³ No rental bonuses shall be granted for rental units in excess of the prior round rental obligation, therefore, PR Rental Bonus Maximum = PR Rental Obligation N.J.A.C. 5:97-3.5

Growth Share Rental Obligation:⁴ 18 Units

Development/Project Name	Type of Affordable Unit	# Units
Eastampton Apartments	Family rental	59
TOTAL		59

Growth Share Family Rental Requirement⁵ : 9 Units

Development/Project Name	Type of Affordable Unit	# Units
Eastampton Apartments	Family rental	59
TOTAL		59

Growth Share Minimum Family Requirement⁶ : 28 Units

Development/Project Name	Type of Affordable Unit	# Units
Eastampton Apartments	Family rental	59
TOTAL		59

Bonus Maximum⁷: 18 Bonuses

Development/Project Name	Type of Bonus	# Bonuses
Eastampton Apartments	Family rental	18
TOTAL		18

⁴ Projected Growth Share Rental Obligation: .25(Projected Growth Share) or .25(73)= 18 units N.J.A.C. 5:97-3.10(b)3

⁵ Projected Growth Share Family Rental Requirement: .5(Projected Growth Share Rental Requirement) or .5(x18)= 9 units N.J.A.C. 5:97-3.4(b)

⁶ Projected Growth Share Family Requirement: .5(Units Addressing the Growth Share Obligation) or .5(55)= 28 units N.J.A.C. 5:97-3.9

⁷ Projected Bonus Maximum: .25(Projected Growth Share) or .25(73)= 18 units N.J.A.C. 5:97-3.20

Actual Growth Share Obligation

The actual growth share obligation will be based on permanent certificates of occupancy issued within Eastampton for market-rate residential units and newly constructed or expanded non-residential developments in accordance with Appendix D of N.J.A.C. 5:97. At plan evaluation review pursuant to N.J.A.C. 5:96-10, COAH will compare the actual growth share obligation with the actual number of affordable units constructed.

The New Jersey Department of Community Affairs (NJ DCA) *Construction Reporter* indicates that between January 1, 2004 and September 2008, Eastampton issued certificates of occupancy for 20 housing units and for the non-residential square footage equivalent of 104 jobs, yielding an actual growth share obligation through September 30, 2008, of 10 affordable units.⁸

Summary of Plan to Address Fair Share Obligation

REHABILITATION SHARE SUMMARY

Rehabilitation Share: 17 Units

Program Name	# Units
New Construction Credits	4
Burlington County Rehabilitation Program	13
TOTAL	17

⁸ The number of residential COs (20) is initially divided by 5 to yield four units and the number of jobs (104) is initially divided by 16 to yield six units. Eastampton's total actual growth share is therefore 10 units (*res 4 + non-res 6*). **Note:** This number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.4; therefore, the actual growth share may vary.

PRIOR ROUND SUMMARY
Prior Round Obligation: 49 Units

	Name of Mechanism	# Units/ Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Post-1986 Credits	Eastampton Apartments	37	Rental	12	49
TOTAL					49

GROWTH SHARE SUMMARY
Projected Growth Share Obligation: 73 Units

	Name of Mechanism	# Units/ Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Post-1986 Credits	Eastampton Apartments	59	Family rental	18	77
TOTAL					77
Surplus					4

III. FAIR SHARE DOCUMENT REVIEW

A. Development Fee Ordinance

Eastampton submitted a draft development fee ordinance for COAH's review and approval with its third round petition. COAH approved the development fee ordinance on March 24, 2009.

B. Third Round Spending Plan

Eastampton submitted a third round spending plan for COAH's review and approval with the Township's third round petition. The spending plan will be reviewed by COAH in a separate report.

C. Affordable Housing Ordinance/Affordable Housing Administration

Eastampton has submitted a draft affordable housing ordinance that, with the changes suggested to the Township by COAH staff, will comport with the requirements of the Uniform Housing Affordability Controls (UHAC), N.J.A.C. 5:80-26.1 et seq., which was amended on December 20, 2004. The draft proposed ordinance also includes compliance with the barrier free subcode of the State Uniform Construction Code Act (N.J.S.A. 52:27D-119 et seq.) and the accessibility requirements of N.J.S.A. 52:27D-123.15. Eastampton must adopt the ordinance within 45 days of COAH's grant of substantive certification and submit the ordinance to COAH immediately upon adoption.

A form designating the Township Manager as the Municipal Housing Liaison was submitted to COAH on February 19, 2009.

Eastampton is responsible for the continued re-sale and re-rental of existing affordable units and the initial sale and rental of newly constructed affordable units within the Township and must identify an experienced administrative entity for that purpose by contract, agreement or letter. Pennrose Properties, under the supervision of the NJHMFA, administers the Eastampton Apartment units in accordance with the requirements for Low Income Tax Credit (LITC) projects. Eastampton must submit a contract with Pennrose Properties or another entity acceptable to COAH as its administrative entity for all affordable units.

Eastampton has been furnished with suggested operating manuals for rental units and for the rehabilitation program. Pursuant to N.J.A.C. 5:80-26.14(b), Eastampton must acknowledge that the Township will follow the procedures in these or Township-developed alternative manuals for administering affordable units within Eastampton.

D. Affirmative Marketing Plan

Eastampton has been furnished with a suggested affirmative marketing plan that comports with the requirements of UHAC and ensures the units in Eastampton's 1987-2018 Fair Share Plan and all future affordable housing units will be affirmatively marketed to the region upon initial sale/rental and re-sale/re-rental. The Township must adopt by resolution this plan or an alternative plan acceptable to COAH within 45 days of

COAH's grant of substantive certification.

IV. COMMENTS

Adam Gordon, on behalf of Fair Share Housing Center (FSHC), submitted a letter dated April 17, 2009 commenting on Eastampton's Fair Share Plan. FSHC states that the letter is not intended as an objection to the Township's plan pursuant to N.J.A.C. 5:96-4.1. FSHC expresses concerns, however, that the Township's plan does not address how Eastampton will meet the requirement in N.J.A.C. 5:97-3.9 that at least 50 percent of the growth share obligation must be family housing, and how it will meet the requirements in N.J.S.A. 52:27-329.1 that 13 percent of the growth share obligation must be affordable to very low-income households. Citing COAH's letter of October 30, 2008, FSHC maintains that Eastampton must assure that at least 50 percent of the very low income housing requirement is met through family housing.

In response to FSHC's comment, COAH notes that the entire 100-unit Eastampton Apartments/Pennrose Properties development is family rental. Additionally, the 13 percent requirement applies to the units addressing the growth share which are constructed after July 17, 2008 (the effective date of P.L. 2008, c.46). Since Eastampton Apartments began occupancy in 2002, the 13 percent requirement does not apply. The Township may, as suggested by FSHC, use affordable housing trust funds to reduce the rents on existing affordable units, making them affordable to very low income households.

V. MONITORING

Eastampton must comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting the Township's actual growth pursuant to N.J.A.C. 5:97-2.5. Pursuant to N.J.A.C. 5:96-10.1, COAH will conduct biennial plan evaluations upon substantive certification of Eastampton's Housing Element and Fair Share Plan. The purpose of the plan evaluation is to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and

employment growth in Eastampton and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing. If upon any biennial review the difference between the number of affordable units constructed or provided in Eastampton and the number of units required pursuant to N.J.A.C 5:97-2.5 results in a pro-rated production shortage of 10 percent or greater, or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, the Council may direct Eastampton to amend its plan to address the shortfall.

VI. RECOMMENDATION

COAH staff recommends that Eastampton be granted third round substantive certification. Eastampton must adopt all necessary implementing ordinances within 45 days of the grant of substantive certification, including the draft resolution of intent to bond, submit a contract with an administrative agent and an operating manual and submit certified copies of the adopted ordinances to COAH within seven days of the adoption.